

# canvassing Kansas

AN UPDATE ON ELECTION NEWS FROM THE KANSAS SECRETARY OF STATE'S OFFICE

DECEMBER  
2010

## General election results

Kansas voters turned out in numbers that were close to predictions for the November 2, 2010 general election.

In his pre-election turnout prediction, Secretary of State Chris Biggs had predicted that 820,000 of the approximately 1.725 million registered voters in Kansas would vote, which calculated to a 47.5% turnout.

When the counting was over, 856,831 votes

had been cast, for a 49.7% turnout.

The 1.725 million registration total reflected an increase of nearly 62,000 registered voters since the 2006 mid-term election. (See Figure 1).

The 49.7% turnout was average for a non-presidential year. Turnout in so-called "off-year" elections is always lower than in presidential years. In 2008, state records were set in total

registration, turnout and advance voting.

Advance voting continued to be a popular option for many voters (see Figure 2). In 2008, a record was set when nearly 35% of the total votes cast were voted in advance. This year's total of 245,089 advance voters easily surpassed 2006 but was, expectedly, short of the 2008 total.

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### 1. Voter Registration

Year	Republican	Democratic	Libertarian	Reform	Unaffiliated	Total
2010	766,422	460,243	10,088	1,280	486,979	1,725,012
2008	771,019	484,710	9,786	1,361	482,883	1,749,756
2006	763,992	441,833	9,191	1,463	446,538	1,663,017
2004	783,068	454,068	9,432	2,278	445,109	1,694,365
2002	742,903	441,269	9,416	1,850	420,261	1,615,699
2000	735,435	449,445	9,973	1,887	424,183	1,623,623*

### 2. Voter Turnout and Advance Voting <sup>†</sup>

Year	Registered Voters	Turnout	Percentage	Advance Voters	Percent
2008	1,749,756	1,234,765	71%	428,772	34.7
2006	1,663,017	864,294	52%	165,313	19.1
2004	1,694,365	1,213,108	72%	245,827	20.2
2002	1,615,699	840,243	52%	137,055	16.5
2000	1,623,623	1,083,264	67%	185,399	17.1
1998	1,513,685	751,505	50%	84,160	11.1
1996	1,438,894	1,076,237	75%	150,000	12.9
1994	1,273,648	836,251	64%		
1992	1,365,849	1,161,927	85%		

\* Includes 2,007 Constitution Party  
† 1996 first year for advance voting

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(785) 296-4564

EDITOR  
Justin Runge

LAYOUT AND  
DESIGN  
Justin Runge

CONTRIBUTORS  
Brad Bryant  
Josh King

Suggestions or comments?  
Please call (785) 368-8095.

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The Secretary of State's office will be closed on **Friday, December 24** for Christmas Eve, and **Friday, December 31** for New Year's Eve. Also, the office will be closed on **Monday, January 17, 2011** for Martin Luther King Day.

## MOVE Act increases email balloting by overseas voters

The federal MOVE (Military and Overseas Voter Empowerment) Act passed in the fall of 2009, leaving only a year for planning and implementation before most of its requirements went into effect for the 2010 general election.

The main provision of the MOVE Act is to allow overseas voters to receive and return their ballots electronically (See *Canvassing Kansas*, September 2010, page 5).

For most, "electronically" means email, but in some cases it may mean an online ballot marking system or other means of electronic transmission.

MOVE applies to voters who qualify under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), including overseas and domestic military personnel and their dependents, and overseas non-military citizens.

An administrative decision made in 2006 by then-Secretary of State Ron Thornburgh permitted UOCAVA voters to request and return their ballots by email. This decision was made at the recommendation of the Federal Voting Assistance Program and was seen as an expansion of the existing Kansas law that allowed faxing of UOCAVA ballots.

Faxing and email are two forms of electronic communication; therefore, some CEOs in Kansas had experience emailing ballots in the primary and general elections of 2006 and 2008.

Federal funding was provided by Congress through MOVE to allow states to receive software that enables online ballot marking as an additional option for UOCAVA voters. The Kansas SOS office exercised that option and was paired with a company called Scytl.

Once a UOCAVA voter has submitted a valid Federal Post Card Application (FPCA) to the CEO, Scytl's system is designed to match the voter with the correct ballot style. To do this, each participating county's ballot program must be loaded into the system.

Midway through the planning process, the SOS office made a decision to focus the implementation on a small number of counties. This decision was made for the following reasons: (1) there was not enough time to bring all 105 counties on board; (2) some counties had little need for the system—28 counties had no FPCAs and some of the rest had fewer than five FPCAs.

*Cont'd on pg. 3*



### From the desk of the Secretary

As my tenure as Secretary of State is drawing to a close, I would like to take this opportunity to express my gratitude for your professionalism and hard work. The well-executed 2010 election cycle once again demonstrates why you have rightfully earned the trust of the citizens of Kansas.

The Secretary-Elect has assured me that all non-personal staff will be retained. These are highly knowledgeable and dedicated public servants who will continue to provide the quality service that you and all Kansans have come to expect.

Again, thank you for your hard work and dedicated service to the State of Kansas; it has been a great honor to serve as your Secretary of State.

Sincerely,

  
Chris Biggs  
Secretary of State

## **MOVE Act** *Cont'd.*

More than 70% of the Kansas UOCAVA ballots are distributed by twelve counties. Of those twelve, seven decided to opt into the Scytl system.

The first (and only) county to go live on the Scytl system was Sedgwick. Even though the CEOs in the remaining six counties worked with Scytl representatives to implement the system until the last few days before the election, in the end, there were no more counties that were able to go live before the November 2 election.

That left inadequate time for UOCAVA voters to learn about the option, and subsequently, no voters used the online ballot marking system this election. It was disappointing to do much of the preparation and not be able to fully deploy the system.

Despite the limited deployment of the Scytl online ballot marking system, the MOVE Act did succeed in increasing the number of ballots transmitted via email, and thus, it was successful in removing obstacles to voting faced by many UOCAVA voters. It greatly reduced the dependence on regular US Mail in areas where delivery is slow or unreliable.

Election officers in Kansas now face a

decision of whether to continue to use the Scytl system or not. The software was provided at no cost to Kansas, but to continue to use it in the future, the state will be required to pay annual licensing

and maintenance fees.

The SOS office wishes to thank the following CEOs for their work in adapting the Scytl system to fit Kansas requirements: Bill Gale, Sedgwick County; Joyce Truskett,

Harvey County; Rebecca Bossemeyer, Geary County; Ron Roberts, Butler County; Brian Newby, Johnson County; Libby Ensley, Shawnee County; and Janet Klasinski, Leavenworth County. ■

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## **HAVA activities to be audited by Office of Inspector General**

They're making a list and checking it twice ...

Unfortunately, that list belongs to the Election Assistance Commission, and the gift we are getting is a federal audit.

Yes, on Sept. 27, 2010 the Secretary of State's office received notice that we would be getting audited by the Office of the Inspector General.

Since that time, we have been working to finalize plans for the audit—work that will continue until late next month when the audit begins.

This is not a surprise. Every state is audited because they are all spending federal money. Most states have already been audited; Kansas is in the last group.

The audit team will focus on our implementation of the Help America Vote Act within the state of Kansas. Much of its effort will be directed toward our spending of the federal money appropriated to Kansas since the program's inception in 2002.

With federal money

being allocated to every county in Kansas over the past several years, the audit will require the cooperation of everyone.

The auditors themselves will be visiting five to seven counties during their time in Kansas. They will be looking to make sure that equipment purchased with federal money is where we say it is within the state, and that it is being adequately stored and protected.

We will be in touch with the affected counties as soon as we know details so that they can better prepare.

However, onsite visits are only a small part of the audit; the EAC has requested a list of 24 things that the SOS office has been working to provide.

The preparations have called upon nearly every division of our office, and we would like to thank the people that have been researching, gathering, calculating, and preparing our reports. We greatly appreciate their hours of hard work.

As well, we appreciate the county election offices' cooperation and work. If you have not already been contacted, you likely will be in the coming weeks.

Since such a large portion of our HAVA funds were spent to provide equipment at the county level, the auditors have requested a list of all equipment purchased with HAVA funds. We will work with the vendors to populate these lists, but will need your assistance to finalize our reports.

In the end, the federal audit team contracted by the EAC will arrive at our office January 31, 2011.

Initial estimates from the auditors suggest a timeline of three to five weeks, depending on the complexity of our HAVA operations.

We have been working since HAVA's inception to operate our program based on the best practices of the industry. We hope that this diligence will pay off with a quick and painless audit process. ■

## Form I-9 not required for poll workers

It is common for county election officers to face questions about various aspects of the book-keeping process when it comes time to pay their poll workers.

There have been various articles in this newsletter over the past twelve years detailing federal and state policies regarding income tax withholding, worker's compensation, and Social Security withholding. Poll workers' salaries are exempt from some of these withholdings.

Recently some CEOs have raised the question of whether poll workers are required to file federal Form I-9, the Employment Eligibility Verification Form, in order to be compensated for their service as election workers.

According to federal law, since November 6, 1986, this form has been required to be completed by each person at the time they are hired to prove that they are authorized to work in the United States, but poll workers are in a different category.

In some ways, poll workers are temporary or intermittent county employees, so if they are to be treated the same as other employees, they would be required to file Form I-9.

However, information provided by the Election

Center indicates that, according to a 1988 letter from the Department of Justice, the Immigration and Naturalization Service (now known as Immigration Control and Enforcement) had exercised its administrative discretion to exempt poll workers from the requirement.

The 1988 letter is reproduced on the opposite page, and more information is available on the Election Center's web site at [www.electioncenter.org/i9-PollWorkerExemption.pdf](http://www.electioncenter.org/i9-PollWorkerExemption.pdf). ■

## Johnson County Election Commissioner reappointed

Secretary of State Chris Biggs appointed Brian Newby to a new term as Johnson County Election Commissioner on September 1, 2010. He begins his second full term in the position.

Newby was first appointed by Secretary of State Ron Thornburgh on January 11, 2005 to fill the remainder of the term when former Election Commissioner Connie Schmidt retired. Newby was subsequently reappointed by Thornburgh on September 1, 2006 to his first full term.

In a September 7 news release, Secretary Biggs said, "As Johnson County Election Commissioner, Brian Newby has earned wide recognition for his professional, non-partisan, and effective public leadership. He has earned the public trust and I am confident he will continue to make Johnson County voters proud as Election Commissioner."

*Cont'd on pg. 6*

## 2010 HAVA endowment program a big one

More than 60 counties participated in the 2010 HAVA endowment program, requesting more than 90 different products from 12 different vendors.

Nearly 54 percent of the program's cost went toward electronic poll books, as the number of counties with e-poll books increased from 22 to 42.

E-poll books were not the only popular items: voting booths, ballot on demand printers, traffic cones, parking signs, and voting machines and accessories made this the most diverse endowment program we have offered.

Because some new items were requested this year, the SOS office

was required to issue Requests for Proposals and go through the state's bid process to establish contracts with vendors to supply the items.

This year's program was also one of the most expensive. With invoices totaling nearly \$1.8 million dollars, this year's program will be the largest outlay of HAVA funds since the initial voting machine purchase in 2006.

The decision was made to increase the threshold of endowment spending this year to help counties during a busy election year and to offset shrinking county budgets. However, spending at this level is neither

sustainable nor part of the plan. Future endowment programs are budgeted to return to more modest levels of spending.

Current plans, pending approval of the Secretary of State, call for a smaller 2011 HAVA Endowment Program to start in the state's fiscal year of 2012. It is likely that most of the items offered in this year's endowment and other items brought onto contract earlier this year may be offered.

If you have suggestions for the endowment program, be they additional items or suggestions on the ordering process, contact Josh King at [joshk@kssos.org](mailto:joshk@kssos.org). ■





U.S. Department of Justice

Immigration and Naturalization Service

425 Eye Street N.W.  
Washington, D.C. 20536

FEB 18 1988

CO 1738-C

Mr. Abe L. Frank, Esq.  
Executive Assistant  
The Election Center  
Suite 349  
444 N.W. Capital Street, NW  
Washington, DC 20001

Dear Mr. Frank:

The Immigration and Naturalization Service (INS) has received many comments on the implementation of the Immigration Reform and Control Act of 1986 (IRCA). INS is appreciative of those comments which have enlightened Service officials about the problems faced during the employment verification of pollworkers and election judges.

While the statute is applicable to pollworkers and election judges, Commissioner Alan C. Nelson has exercised his administrative discretion to exempt governmental entities that employ citizens as election judges and pollworkers from the employment verification procedures of IRCA.

Based on the strong working relationship our officers have established we wish to ask your assistance in disseminating this information to all effected parties.

Thank you for your cooperation and assistance in implementation of the IRCA.

Sincerely,

JOHN R. SCHROEDER  
Assistant Commissioner  
Employer and Labor  
Relations

*This page: a 1988 letter from the Department of Justice, indicating that the INS had exempted poll workers from completing an I-9.*

# After election is the time for voter file maintenance

Once a major election is over and everything is certified, sealed, stored away, put behind us, it is a good idea to do some voter registration list maintenance. Here are some areas of voter registration that deserve attention in the weeks and months after the first Tuesday in November.

## ■ Inactives

The main thing to do immediately after the election is to cancel the registrations of some of the inactives on your voter registration list.

To review, inactive registrants are those registered voters who have been sent a confirmation notice because of information from the U.S. Postal Service indicating that the voters have moved out of the county (or state).

According to federal and state laws, when the election officer sends a confirmation notice to these voters, they should be listed as inactive on the voter file, and if any such voter does not vote or otherwise contact the election office to activate their record during the period beginning with the date the notice was mailed and ending on the second succeeding November general election, the record may be canceled.

This means that any inactive voters who were mailed confirmation notices before the general

election held on November 4, 2008 who have not voted in any election since then should be removed from the voter registration list.

On the other hand, if they voted in any election or contacted the election office during that period, their inactive status should be removed and they should be restored to active status in the voter registration database.

## ■ NCOA

Other list maintenance activities that will occur in the near future are the National Change of Address (NCOA) program and the interstate crosscheck.

The NCOA program is required by state law to comply with NVRA's maintenance requirements. The SOS office will compare the NCOA list from the Postal Service to the statewide voter registration database and send the matches to each CEO, who will then send confirmation notices. The program is scheduled for January, 2011.

## ■ Interstate Crosscheck

Another program planned for January is the interstate crosscheck. The 2010 program, hosted by Kansas, included twelve states in addition to Kansas. Two other states have inquired about joining the program but as yet have not signed the Memorandum of Understanding.

The crosscheck will be run at approximately the same time as NCOA. Interstate crosschecking is not required by federal or state law; rather, it is a voluntary and optional program that assists states in identifying duplicate registrations and, in a few cases, double votes.

When CEOs receive the results of NCOA and the interstate crosscheck, it will cause them to mail a large number of confirmation notices, which will temporarily increase the number of inactive voters on the list. But after each election, some of the inactives may be canceled if the individuals do not vote, resulting in a cleaner list.

## ■ Deaths and Felonies

Two other regular programs to focus increased efforts on are death records and felony conviction notices.

HAVA requires an interface with the Office

of Vital Statistics to obtain death records, which are sent to CEOs via the Agency Central function of ELVIS.

When the CEO receives a death notice, the registration record should be canceled if the deceased person was a registered voter.

At the same time, CEOs should keep in mind that they are still required under state law to review obituaries published in newspapers and to cancel the corresponding registrations.

The felony conviction interface with the Kansas Department of Corrections produces records of persons convicted of state felonies, and the CEO should cancel registrations of felons when they match registration records.

A related program required by the National Voter Registration Act of 1993 results in notices of federal felony convictions. Under the NVRA, U.S. Attorneys are required to send copies of federal felony convictions to state election offices, who forward them to the appropriate CEO for cancellation of the voter records.

All of these programs produce cleaner voter lists if regular and diligent attention is paid to them by each county election office. ■

## General election results *Cont'd.*

### MOVE Act

This year's election featured implementation of the federal MOVE Act (Military and Overseas Citizens Empowerment Act), allowing overseas voters to receive and return their ballots by email or other electronic means. (See page 2.)

### Electronic Reporting

Repeating a successful program initiated in the August primary this year, most county election officers reported vote totals electronically, both on election night and when reporting their certified results on the abstract.

This reporting system allows the election officer to go to a secure web site maintained by the Secretary of State's office and to enter vote totals directly into the tabulation system.

This saves a lot of time, eliminates one step in the process, and reduces the opportunity for data entry errors.

### Candidate Module Reporting

The candidate filing module is a contractual requirement of the

ELVIS voter registration and election management system.

This module will allow a county election officer to create their election (candidates, offices, parties, precincts, etc.) in ELVIS, export the program files into their vote tabulation software (ES&S Unity or Premier GEMS) and export the files, with vote totals included, back to the state tabulation system.

ES&S and the SOS office have been working for the past several years to develop, program, and test the candidate filing module with the assistance of a number of county users who have participated in extensive tests.

For the 2010 general election, two counties—Lyon and Smith—volunteered to use the system to submit their results electronically. In the end, only Smith County was able to complete the file transfer, but it worked for them, so a successful test was accomplished.

Lyon County was unable to transfer files due to a problem matching up some of the fields with their GEMS report, even though the county clerk's office had done all the necessary preparations.

Once the problems are worked out and more counties are able to use the system, it will allow for true electronic reporting. This will eliminate

the need to fill in abstracts, data-enter results, or call and fax election night results, thereby accomplishing a quick and accurate file transfer.

### State Canvass

The final event in the 2010 general election process was the meeting of the state board of canvassers, which was held on Monday, November 29 at 10:00 am in the office of Secretary of State Chris Biggs.

The statutory members of the canvassing board are the Governor, Attorney General and Secretary of State.

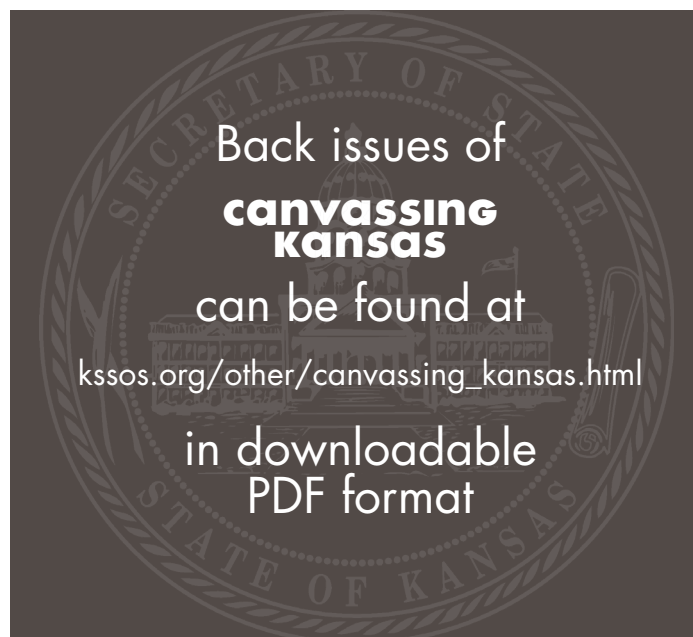
After the canvass, the SOS office mailed certificates of election to winners of national and state offices. State officers will be inaugurated and sworn in on January 10, 2011, and members of Congress sworn in on January 6, 2011. ■

## Newby *Cont'd.*

Secretary Biggs and several staff members attended a reception at the Johnson County Election Office in Olathe on September 8, during which Biggs administered the oath to Newby. During his remarks, Biggs noted that Newby has earned recognition for innovative uses of online technology designed to increase the accessibility and transparency of the Johnson County Election Commission.

During his remarks, Newby said, "It's rewarding to be part of the election office, because Johnson County voters are among the most engaged citizens in the country. I'm grateful to Secretary Biggs for the opportunity to continue to serve them."

Newby's current term will expire on August 31, 2014. ■



## State Fair Opinion Poll Results

The Secretary of State's office operated its booth at the Kansas State Fair in Hutchinson from September 10 through 19. In addition to registering voters, selling Kansas flags, and promoting general office activities, an opinion poll was again conducted to promote voting and to allow voters to familiarize themselves with voting machines. Below are the results of this year's opinion poll.

### 1. What is your opinion of the current condition of the U.S. economy?

It's improving	166
It's about the same as a year ago	273
It's getting worse	520

### 2. How often do you wear your seat belt?

All of the time	679
Most of the time	137
Some of the time	32
Never	13

### 3. Do you plan to vote in the general election on November 2?

Yes	751
No	82
I'm not sure yet	35

### 4. What is your favorite food at the State Fair?

Funnel cakes	275
Corn on the cob	165
Pronto Pups	302
Turkey legs	72

*Thanks to Saline County Clerk Don Merriman for the use of two ES&S iVotronic voting machines and to The Lockwood Company for donating the ballot programming.*